

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**CRIMINAL NO. 3:05CR92**

**UNITED STATES OF AMERICA**     )

)

)

**VS.**

)

**ORDER**

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**MARK S. COX**     )

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)

**THIS MATTER** is before the Court by reassignment for the consideration of the third-party petition of Carol Ann Cox objecting to entry of an order of forfeiture. The Government has moved to dismiss that petition or, in the alternative, for summary judgment. Ms. Cox recently filed a supplemental affidavit to which she attached exhibits in support of her claim.

The Court is aware that both 21 U.S.C. § 853 and Federal Rule of Criminal Procedure 32.2 provide for an evidentiary hearing as to such petitions. However, the current court calendar of the undersigned as well as the need for a short medical absence during December 2005 make the scheduling of such a hearing almost impossible during the remainder of this year. As a result, it may be that the parties would prefer to place any further

evidence before the Court through exhibits and allow a ruling based on the pleadings.

**IT IS, THEREFORE, ORDERED** that the parties shall advise the Court by pleading to be filed on or before November 30, 2005, whether they would agree to a disposition of this matter without a hearing. The parties shall not file any additional evidence with this response. In the event that the parties agree to a disposition of the matter without a hearing, a further scheduling Order will be entered.

**Signed: November 14, 2005**

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

